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Attorney for Plaintiff
VIVINE H. WANG

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

VIVINE H. WANG, an individual,

Plaintiff,

v.

THE BEAR STEARNS COMPANIES
LLC, a Delaware limited liability
company formerly known as The Bear
Stearns Companies Inc.; J.P.
MORGAN SECURITIES LLC, a
Delaware limited liability company
formerly known as Bear, Stearns &
Co., Inc.; J.P. MORGAN CLEARING
CORP, a Delaware corporation
formerly known as Bear, Stearns
Securities Corp.; DELOITTE &
TOUCHE LLP, a limited liability
partnership; ALAN D. SCHWARTZ, an
individual; ALAN C. GREENBERG, an
individual; JOEY ZHOU, an individual;
and GARRETT BLAND, an individual,

Defendants.

Case No. CV11-02624 PSG (SSx)

[Assigned by all Purposes to the Honorable
Philip S. Gutierrez]

**PLAINTIFF'S OPPOSITION TO *EX PARTE*
APPLICATION FOR STAY OF CASE BUT
NOT TO GRANT OF REASONABLE
EXTENSION OF TIME TO RESPOND TO
COMPLAINT; DECLARATION OF
MOHAMMED K. GHODS IN SUPPORT
THEREOF**

Plaintiff VIVINE H. WANG ("Plaintiff") responds to the *Ex Parte* Application
brought by Defendants THE BEAR STEARNS COMPANIES LLC, J.P.MORGAN
SECURITIES LLC and J.P. MORGAN CLEARING CORP ("Bear Stearns Defendants"),

1 which is joined in by Defendant Deloitte & Touche LLP ("Deloitte"), as follows:

2 1. This *ex parte* application was completely unnecessary and violates the
3 Court's local rules regarding same. As will be shown below, these defendants are
4 reneging on an agreement they already made for an extension of time. The purported
5 emergency has been caused by the Bear Stearns Defendants for no reason at all. *Ex*
6 *parte* applications are designed solely for extraordinary relief. See *Mission Power Eng.*
7 *Co. v. Continental Casualty Co.*, 883 F.Supp. 488 (C.D.Cal. 1995).

8 2. As alleged in her complaint, Plaintiff Mrs. Wang has been defrauded out of
9 millions of dollars by the defendants named in this action.

10 3. Soon after Plaintiff's complaint was filed and served on the Bear Stearns
11 Defendants and Deloitte, on April 4, 2011, the Bear Stearns Defendants (and two of the
12 four individuals named as defendants in this case) filed and served a Notice of Tag
13 Along Action with the Judicial Panel on Multi-District Litigation ("MDL"). (See Exhibit "A"
14 attached to the Declaration of Mohammed K. Ghods (hereinafter "Ghods Declaration").)

15 4. This notice signified Defendants' intention to litigate (as opposed to
16 arbitrate) Mrs. Wang's claim as part of the MDL proceedings. Mrs. Wang recently opted
17 out of the MDL class actions by filing her own action. Defendants are trying to force her
18 to litigate in New York instead of her home court. It is understandable, but not
19 excusable, that Defendants wish to push Mrs. Wang back in to the MDL litigation.
20 Unfortunately, that will result in a further delay in attending to the merits of Mrs. Wang's
21 claim against them.

22 5. On or about April 12, 2011, the attorney for the Bear Stearns Defendants,
23 Mr. John Durrant, contacted Plaintiff's counsel, Mr. Ghods, to discuss the time frame for
24 filing of responsive pleadings by these Defendants. Mr. Ghods and Mr. Durrant had
25 several discussions and email exchanges regarding a possible stay of the action versus
26 extensions of time to file responsive pleadings.

27 6. With respect to the stay of action, Mr. Durrant represented to Mr. Ghods
28

1 that he did not represent all of the parties named in the action. Therefore, the parties
2 were not able to reach a stipulation regarding a stay.

3 7. With respect to extension of time, Mr. Ghods and Mr. Durrant did reach an
4 agreement that was confirmed by Mr. Durrant as follows:

5 Mohammed:

6 Following up on our call on Tuesday, the defendants that
7 have been served (i.e., the Bear and JP Morgan entities and
8 Deloitte) have authorized me to accept your modified
9 proposal regarding the response date to the complaint -- a
10 60-day extension of the time to respond to the Complaint,
11 which could be extended by further agreement by the parties
12 or court order. While they would have preferred an indefinite
13 extension keyed off the resolution of the transfer issue, this
14 seems like a sensible compromise that avoids us involving
15 the Court at this early juncture. We will prepare a stipulation
16 and order and circulate it. Feel free to call or email if you
17 have any questions.

18 Regards,

19 John

20 (A true and correct copy of the email dated April 14, 2011 from Mr. Durrant to Mr. Ghods
21 is attached as Exhibit "B" to the Ghods Declaration.)

22 8. Unfortunately, the stipulation that was prepared by the defendants did not
23 simply confirm the agreement that was reached. Instead, it overreached into unrelated
24 areas such non-waiver of arbitrability, etc. Plaintiff's counsel informed Defendants'
25 counsel that the extension of time was agreeable but the surplusage language needed
26 to be removed from the parties stipulation. (A true and correct copy of the email dated
27 April 19, 2011 from Mr. Ghods' office to Mr. Durrant's office is attached Exhibit "C" to the
28 Ghods Declaration.)

9. In an illogical turn of events, the Bear Stearns Defendants -- who in the first
place had added the unnecessary language to a simple stipulation to extend time to
respond -- accused Plaintiff's side of "attaching strings" to the stipulation. As shown by

1 Mr. Durrant's email of April 14, Exhibit "B", Plaintiff had not attached any strings.
2 Defendants did. Defendants did not want to simply memorialize an extension of time as
3 had been agreed upon.

4 10. Tellingly, the language of the "Proposed Order" submitted by the
5 Defendants in connection with the extension of time does not contain the excess
6 language they included in the stipulation. Defendants know all too well that the extra
7 language placed in their draft of the stipulation for extension of time was unnecessary
8 and in fact is not part of the relief they are seeking from this Court.

9 11. Perhaps realizing the Court may well consider abusive an *ex parte* to
10 obtain the extension of time on these facts, Defendants have switched tracks and are
11 asking for the greater relief of a complete stay of the case. This request is also abusive.
12 Plaintiff has not been given due notice of a motion for a stay of case and nor a fair
13 opportunity to address the related issues. The purpose of the *ex parte* procedure is not
14 to unduly prejudice the parties. These Defendants are well aware that there other
15 parties to this case that they do not represent. A total stay of the case will further and
16 unnecessarily delay the prosecution of Mrs. Wang's claims. In this case, Plaintiff agreed
17 to what Defendants' also called a "sensible" extension of time that will protect these
18 Defendants' interests. Most importantly, Defendants expressly agreed to the extension
19 of time.

20 12. Plaintiff submits this *ex parte* is unwarranted and if the Court, out of grace,
21 were to grant any relief to Defendants it should simply hold them to their agreement for
22 extension of time, to wit: the Defendants the Bear and JP Morgan entities and Deloitte

23 //

24 //

25 //

26 //

27 //

1 shall have a 60-day extension of the time to respond to the Complaint, which extension
2 could be extended by further agreement by the parties or court order. Plaintiff has
3 submitted a proposed order to this effect in the event the Court chooses to grant this
4 relief.

5
6 DATED: April 22, 2011

Respectfully submitted

GHODS LAW FIRM

7
8 By: 

MOHAMMED K. GHODS

WILLIAM A. STAHR

JEREMY A. RHYNE

Attorneys for Plaintiff

VIVINE H. WANG

DECLARATION OF MOHAMMED K.GHODS

I, MOHAMMED K. GHODS, declare as follows:

1. I am an attorney duly licensed to practice law in all the courts of the State of California. I represent the Plaintiff, Mrs. Vivian H. Wang, in this matter. I have personal knowledge of the matters stated herein and, if called as a witness, could and would competently and truthfully testify to thereto.

2. On or about April 4, 2011, the Bear Stearns Defendants (and two of the four individuals named as defendants in this case) filed and served a Notice of Tag Along Action with the Judicial Panel on Multi-District Litigation ("MDL"), a true and correct copy of the Notice is attached as Exhibit "A" hereto.

3. On or about April 12, 2011, the attorney for the Bear Stearns Defendants, Mr. John Durrant, contacted me to discuss the time fame for filing of responsive pleadings by his clients. We had discussions and email exchanges regarding a possible stay of the action versus extensions of time to file responsive pleadings.

4. With respect to the stay of action, Mr. Durrant represented to me that he did not represent all of the parties named in the action. Therefore, we were not able to reach a stipulation regarding a stay.

5. With respect to extension of time, we did reach an agreement that was confirmed by Mr. Durrant as follows:

Mohammed,

Following up on our call on Tuesday, the defendants that have been served (i.e., the Bear and JP Morgan entities and Deloitte) have authorized me to accept your modified proposal regarding the response date to the complaint -- a 60-day extension of the time to respond to the Complaint, which could be extended by further agreement by the parties or court order. While they would have preferred an indefinite extension keyed off the resolution of the transfer issue, this seems like a sensible compromise that avoids us involving the Court at this early juncture. We will prepare a stipulation and order and circulate it. Feel free to call or email if you have any questions.

John

6. Unfortunately, the stipulation that was prepared by the defendants did not simply confirm the agreement that was reached. Instead it overreached into unrelated areas such non-waiver of arbitrability etc. Mr. Durrant and I had subsequent discussions and email exchanges on this point as well. We informed Mr. Durrant that the extension of time was agreeable but the surplusage language needed to be removed from the parties stipulation. My office sent the stipulation draft back lining out the unnecessary language that needed to be removed. (A true and correct copy of the email dated April 19, 2011 from my office to Mr. Durrant's office is attached Exhibit "C" hereto.)

8. My office has not received any notice of motion for a stay of the case.



MOHAMMED K. GHODS

EXHIBIT A

EXHIBIT A

**BEFORE THE JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

IN RE: THE BEAR STEARNS COMPANIES
INC., SECURITIES, DERIVATIVE AND
EMPLOYEE RETIREMENT INCOME
SECURITY ACT (ERISA) LITIGATION

MDL DOCKET NO. 1963

RULE 7.1 NOTICE OF POTENTIAL TAG-ALONG ACTION

TO THE CLERK OF THE PANEL:

Pursuant to Rule 7.1(a) of the United States Judicial Panel on Multidistrict Litigation (the "Panel") Rules of Procedure, The Bear Stearns Companies LLC (f/k/a The Bear Stearns Companies Inc.) ("Bear Stearns") hereby notifies the Clerk of the Panel of the following potential tag-along action in which Bear Stearns has been named:

Vivine H. Wang v. The Bear Stearns Companies LLC, J.P. Morgan Securities LLC, J.P. Morgan Clearing Corp., Deloitte & Touche LLP, Alan D. Schwartz, Alan C. Greenberg, Joey Zhou, and Garrett Bland, 11 CV 02624 (the "Vivine Wang Action")

The Vivine Wang Action is currently pending in the United States District Court for the Central District of California ("C.D. Cal.") and has been assigned to the Honorable Percy Anderson. A true and correct copy of the docket and plaintiff's complaint filed in this action is attached hereto as Exhibit A.

The Vivine Wang Action shares common questions of fact with related actions assigned to The Honorable Robert W. Sweet in the United States District Court for the Southern District of New York ("S.D.N.Y.") pursuant to the Panel's August 18, 2008 Order in *In Re: The Bear Stearns Companies Inc., Securities, Derivative and Employee Retirement Income Security Act (ERISA) Litigation*, MDL-1963, and Ms. Wang expressly alleges that she is an opt-out from the putative securities class action before Judge Sweet and incorporates allegations from the consolidated securities complaint into her complaint by reference. *In re The Bear Stearns Cos., Inc. Sec. Litig.*, 08 MDL 1963; 08 Civ. 2793 (RWS).

Significantly, the Vivine Wang Action alleges identical facts, and is based on the identical alleged purchases of Bear Stearns stock, as *H. Roger Wang v. The Bear Stearns Companies Inc., Bear, Stearns & Co. Inc., Bear Stearns Securities Corp., Joey Zhou, and Garrett Bland*, 08 CV 05523 (the "Roger Wang Action"), an action filed by Ms. Wang's husband that was transferred from the C.D. Cal. to Judge Sweet in the S.D.N.Y. pursuant to the Panel's February 4, 2009 Transfer Order. True and correct copies of the Panel's February 4, 2009 Transfer Order and the complaint filed in the Roger Wang action are attached hereto as exhibits B and C respectively.

Dated: April 4, 2011
New York, New York

Respectfully submitted,

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

/s/ Eric S. Goldstein
Brad S. Karp (bkarp@paulweiss.com)
Eric S. Goldstein (egoldstein@paulweiss.com)

1285 Avenue of the Americas

Case MDL No. 1963 Document 34 Filed 04/04/11 Page 3 of 3

New York, NY 10019-6064
Telephone: 212-373-3000
Facsimile: 212-492-0148

*Attorneys for The Bear Stearns Companies LLC, J.P.
Morgan Securities LLC, J.P. Morgan Clearing Corp.,
Joey Zhou, and Garrett Bland*

EXHIBIT B

EXHIBIT B

Vivine Wang v. Bear Stearns, et al. -- response date to complaint

11 messages

Durrant, John S. <JohnDurrant@paulhastings.com>

Thu, Apr 14, 2011 at 1:46 PM

To: mghods@ghodslaw.com

Cc: "Wanner, Kathryn C." <kathrynwanner@paulhastings.com>

Mohammed,

Following up on our call on Tuesday, the defendants that have been served (i.e., the Bear and JP Morgan entities and Deloitte) have authorized me to accept your modified proposal regarding the response date to the complaint -- a 60-day extension of the time to respond to the Complaint, which could be extended by further agreement by the parties or court order. While they would have preferred an indefinite extension keyed off the resolution of the transfer issue, this seems like a sensible compromise that avoids us involving the Court at this early juncture. We will prepare a stipulation and order and circulate it. Feel free to call or email if you have any questions.

Regards,
John

EXHIBIT C

EXHIBIT C

From: Judith Duenes [mailto:judith.duenes@gmail.com] **On Behalf Of** Judith
Sent: Tuesday, April 19, 2011 12:12 PM
To: Durrant, John S.
Cc: wtahr@ghodslaw.com; rlopez@ghodslaw.com
Subject: Vivine Wang v. The Bear Stearns Companies, et al. [Stip and propose attached]
Importance: High

Attached is the revised stipulation and proposed order acceptable to us. Please drafts and email back for signature.

Thank you for your attention.

Judi Duenes
Assistant to William A. Stahr, Esq.

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EXHIBIT C - Page 12

2 attachments — [Download all attachments](#)

 **Wang-Bear-Stipulation.pdf**
260K [View](#) [Download](#)

 **Wang-Bear-Re Order.pdf**
182K [View](#) [Download](#)

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Telephone: (213) 683-6000
7 Facsimile: (213) 627-0705

8 Attorneys for Defendants
The Bear Stearns Companies LLC; J.P. Morgan Securities LLC; and J.P.
9 Morgan Clearing Corp.

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12

13 Vivine H. Wang,

14 Plaintiff,

15 vs.

16 The Bear Stearns Companies LLC
(formerly known as The Bear Stearns
17 Companies, Inc.); J.P. Morgan
Securities LLC (formerly known as
18 Bear, Stearns & Co., Inc.); J.P. Morgan
Clearing Corp. (formerly known as
19 Bear, Stearns Securities Corp.);
Deloitte & Touche LLP; Alan D.
20 Schwartz; Alan C. Greenberg; Joey
Zhou; Garrett Bland,
21

22 Defendants.
23
24
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CASE NO. CV11-02624 PSG (SSx)

**STIPULATION TO EXTEND TIME
FOR DEFENDANTS TO ANSWER
THE COMPLAINT**

[[Proposed] Order filed and served
concurrently herewith]

Judge: Hon. Philip S. Gutierrez
Department: 880
Complaint Served: April 4, 2011
Current Response Date: April 25, 2011
New Response Date: June 24, 2011

Trial Date: TBD

STIPULATION TO EXTENT TIME FOR
DEFENDANTS TO ANSWER

1 **WHEREAS** the Complaint in this matter was filed on March 29, 2011;

2
3 **WHEREAS** defendants J.P. Morgan Securities LLC, J.P. Morgan Clearing
4 Corp., The Bear Stearns Companies LLC, and Deloitte & Touche LLP
5 (“Defendants”) were served on April 4, 2011, making their responses to the
6 Complaint due on April 25, 2011;

7
8 **WHEREAS** on April 11, 2011 the United States Judicial Panel on
9 Multidistrict Litigation (“MDL Panel”) issued and entered a Conditional Transfer
10 Order (“CTO”) transferring this matter to the United States District Court for the
11 Southern District of New York for coordinated or consolidated pretrial proceedings
12 with *In re: The Bear Stearns Companies Inc. Securities, Derivative and Employee*
13 *Retirement Income Security Act (ERISA) Litigation*, MDL No. 1963;

14
15 **WHEREAS** plaintiff Vivine H. Wang (“Plaintiff”) filed a notice of
16 opposition to the CTO with the Clerk of the MDL Panel on April 18, 2011;

17
18 **WHEREAS** Plaintiff’s motion to vacate the CTO and brief in support
19 thereof is due within fourteen days of April 18, 2011.

20
21 **IT IS HEREBY STIPULATED**, by and between Plaintiff and Defendants,
22 that Defendants’ deadline for answering, or otherwise responding to the Complaint,
23 be extended by sixty (60) days to and including June 24, 2011.

24 ~~Neither Plaintiff nor Defendants waive their rights to seek from each other or~~
25 ~~the Court additional adjournments or extensions of the above deadline, and the~~
26 ~~entry into this agreement and submission of this stipulation shall not waive, and the~~
27 ~~parties expressly preserve, all rights, claims, and defenses, including, without~~
28 ~~limitation, all defenses relating to jurisdiction, venue, and arbitrability. Neither~~

1 ~~Plaintiff nor Defendants waive their right to contest the propriety of responding to~~
2 ~~the Complaint in advance of the MDL Panel's decision regarding transfer of the~~
3 ~~matter.~~

4 **IT IS SO STIPULATED.**

5
6 DATED: April _____, 2011

7
8 By: _____
JOHN S. DURRANT

9 Attorney for Defendants
10 The Bear Stearns Companies LLC; J.P. Morgan
Securities LLC; and J.P. Morgan Clearing Corp.

11 DATED: April _____, 2011

12
13 By: _____
ROWAN D. WILSON

14 Attorney for Defendant Deloitte & Touche LLP

15 DATED: April _____, 2011

16
17 By: _____
MOHAMMED GHODS

18 Attorney for Plaintiff Vivine H. Wang

19
20 LEGAL_US_W # 67745475.2

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7 Attorneys for Defendants
8 The Bear Stearns Companies LLC; J.P. Morgan Securities LLC; and J.P.
Morgan Clearing Corp.
9

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12

13 Vivine H. Wang,

14 Plaintiff,

15 vs.

16 The Bear Stearns Companies LLC
(formerly known as The Bear Stearns
17 Companies, Inc.); J.P. Morgan
Securities LLC (formerly known as
18 Bear, Stearns & Co., Inc.); J.P. Morgan
Clearing Corp. (formerly known as
19 Bear, Stearns Securities Corp.);
Deloitte & Touche LLP; Alan D.
20 Schwartz; Alan C. Greenberg; Joey
Zhou; Garrett Bland,
21

22 Defendants.
23
24
25
26
27
28

CASE NO: CV11-02624 PSG (SSx)

**[PROPOSED] ORDER GRANTING
EXTENSION OF TIME FOR
DEFENDANTS TO ANSWER THE
COMPLAINT**

[Stipulation to Extend Time to Answer
filed and served concurrently herewith]

Judge: Hon. Philip S. Gutierrez
Department: 880
Complaint Served: April 4, 2011
Original Response Date: April 25, 2011
New Response Date: June 24, 2011

Trial Date: TBD

[PROPOSED] ORDER EXTENDING
DEFENDANTS' TIME TO ANSWER

1
2 **[PROPOSED] ORDER GRANTING EXTENSION OF TIME**

3 The parties, having STIPULATED AND AGREED, and for good cause
4 shown, the Court orders as follows:

5 The time of defendants The Bear Stearns Companies LLC; J.P.
6 Morgan Securities LLC; J.P. Morgan Clearing Corp.; and Deloitte & Touche LLP
7 ("Defendants") to respond to the Complaint in the above-captioned case is extended
8 sixty (60) days to and including June 24, 2011.

9 ~~2. Neither plaintiff Viviane H. Wang nor Defendants waive their~~
10 ~~rights to seek from each other or the Court additional adjournments or extensions of~~
11 ~~time or the right to take any position with respect to any matter, including, but not~~
12 ~~limited to, the Conditional Transfer Order pertaining to this matter issued by the~~
13 ~~United States Judicial Panel on Multidistrict Litigation on April 11, 2011; and the~~
14 ~~entry into this agreement and submission of this stipulation shall not waive, and the~~
15 ~~parties expressly preserve, all rights, claims, and defenses, including, without~~
16 ~~limitation, all defenses relating to jurisdiction, venue, and arbitrability.~~

17 IT IS SO ORDERED.

18 DATED:

19
20
21 By: _____
22 Hon. Philip S. Gutierrez
23

24
25 LEGAL_US_W # 67747570.1
26
27
28